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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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JUL 15 1996

FEDERAL COMMUNICATIONS COMMISSION
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In the Matter of	)	
	)	
Implementation of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996	)	CC Docket No. 96-128

REPLY COMMENTS OF THE
GEORGIA PUBLIC COMMUNICATIONS ASSOCIATION

Newton M. Galloway
113 Concord Street
Zebulon, GA 30295
(706) 567-3080

Attorney For Georgia Public
Communications Association

Albert H. Kramer
Robert F. Aldrich
DICKSTEIN, SHAPIRO, MORIN
& OSHINSKY, L.L.P.
2101 L Street, N.W.
Washington, D.C. 20037-1526
(202) 828-2226

Special Attorneys for Georgia Public
Communications Association

July 15, 1996

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SUMMARY

The Commission must clearly and specifically reject the Bell companies' position that they can implement the statutory requirement to eliminate subsidies and discrimination without making significant changes in their dealings with IPP providers or their own payphone operations. In light of the lack of incentive for either Bell companies or other local exchange carriers to collaborate in the removal of long-established anticompetitive practices and patterns, the Commission must spell out up-front, in regulations, the key steps LECs must take to unbundle their network elements and impute charges for all inputs provided to their own payphone operations.

For example, individually ratable coin line functions, as well as unbundled elements such as answer supervision, are feasible and must be provided in order to ensure that coin line functions are useful to IPP providers. Similarly, the other services discussed in GPCA's comments must be available to IPP providers and provided to the LEC's payphone operations at imputed rates. Commission payments for delivering traffic to LEC operator services must be nondiscriminatory between LEC payphones and IPPs, and must enable IPP provider aggregations to earn the same commission levels as the LEC payphone operation.

Evidence from a Bell company's own offer to acquire an IPP provider's sites <u>minus</u> the payphone equipment conclusively refute the RBOC Coalition's claim that valuation of payphone assets at the net book value of equipment alone is sufficient to prevent subsidy in the transfer of payphones out of regulated accounts. Since there is

demonstrably enormous value in payphone contracts and good will, those factors must be included in appraisal of the economic value of LEC payphone operations.

The RBOC Coalition's proposal to postpone asset transfers and elimination of subsidies until the end of 1997 should be rejected. If any delay is allowed, in order to prevent continuing subsidy the Bell companies should be prohibited from entering new location contracts or (to the extent otherwise authorized) selecting interLATA carriers pending the completion of implementation of Section 276.

In light of continuing abuses by both Bell company and non-Bell LECs, it is critical that effective safeguards be applied to all LECs with more than $100 million annual revenue. In addition, because of the special circumstances hindering development of competition in island territories, the companies serving island territories such as Puerto Rico and the Virgin Islands should be subject to safeguards whether or not they exceed applicable size thresholds.

The comments of other parties make clear that Bell companies must not be permitted to select interLATA carriers serving their payphones unless strong additional safeguards are imposed, including separate subsidiary requirements and limits on the Bell companies to extract interLATA commission levels exceeding those available to IPP provider aggregations.

The Commission should implement a public interest payphone plan along the lines proposed by APCC.

Finally, the Commission has ample legal authority to sponsor a self-enforcement program funded by compensation revenues, as proposed by APCC.

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REPLY COMMENTS OF THE GEORGIA PUBLIC COMMUNICATIONS ASSOCIATION

The Georgia Public Communications Association ("GPCA") hereby replies to comments on the Commission's Notice of Proposed Rulemaking, FCC 96-254, released June 6, 1996 ("Notice"), to implement Section 276 of the Communications Act of 1934, 47 U.S.C. § 276, as added by Section 151(a) of the Telecommunications Act of 1996, Pub. L. 104-104 (Feb. 8, 1996). GPCA's reply comments focus on the reclassification of local exchange carrier ("LEC") payphones pursuant to Section 276(b)(1)(B) of the Act (Notice, ¶¶ 41-56) and the adoption of safeguards to prevent Bell companies and other LECs from subsidizing and discriminating in favor of their payphone operations. (Notice, ¶¶ 57-66).

I. LEC PAYPHONE RECLASSIFICATION AND SAFEGUARDS (¶¶ 41-66)

A. Reclassification And Safeguards (¶¶ 42-48, 57-66)

The comments of the Bell companies indicate a disturbing lack of seriousness about compliance with the Act's mandate to cease subsidizing their own payphone services and discriminating against those of IPP providers. As discussed below, the RBOC Coalition adopts a minimalist approach to unbundling their coin lines and takes the position that no other services need be provided to IPP providers. The Commission should recognize this attitude for what it is – the arrogance of monopolists who are comfortable with the status quo and don't intend to change.

The Commission must make clear that the strict standards of Section 276, which prohibit any discrimination or subsidy, require full unbundling of network functions from LEC payphones and from one another, and imputation to the Bell companies' (and other LECs') payphone operations of charges for all inputs received from regulated operations. Such imputation and unbundling are critical to prevent discrimination because they are the only effective way to ensure that all PSPs can obtain the same LEC services on the same terms. Unbundling and imputation are critical to preventing subsidies because they force subsidies to be made visible and to benefit the LEC's competitors as well as the LECs themselves.

The Commission also must specify up front, in its regulations, the obligations of LECs as to each element that must be unbundled and imputed. Otherwise, the process of implementing the Act's mandate will drag on indefinitely, because, as the RBOC coalition's comments clearly signal, the Bell companies have no incentive to collaborate in the process of ending discrimination and subsidies that benefit them.

1. Access Line and Coin Services (¶¶ 45-46, 57-66)

According to the RBOC Coalition, the Bell companies need only offer "the standard coin line and the alternate access line as defined in the LSSGR." RBOC Coalition at 24. Such minimalist offerings do not even meet the Computer III standard that is the minimum safeguard to be applied to Bell companies under Section 276. Computer III's CEI/ONA standards require Bell companies to offer unbundled network elements. See, e.g., Amendment of Section 64.702 of the Commission's Rules and Regulations (Third Computer Inquiry), 104 FCC 2d 958, 1064-66 (1986) (subsequent history omitted). In the payphone context, this standard requires, at a minimum, the unbundling of such essential functions as answer supervision, which is necessary to enable IPP providers to deliver an equivalent quality of service to payphone users.[1] What the RBOC Coalition proposes is a bundled coin line that offers, on a take-it-or-leave-it basis, only the complete package of network elements currently used by Bell company payphones.

Further, the RBOC Coalition formulation evades the issue of whether the "coin collect and return functionality" included in a "standard coin line" will be based on rates selected by the PSP, or whether such functionality will be available only based on the rates

[1] Another key function that LECs should be required to provide is the intercept signal or "SIT tones" which indicate that a call cannot be completed as dialed.

selected by the Bell companies' own PSP operations. The network coin control functionality on which LEC payphones generally rely is programmed to allow completion of a call when the correct combination of coins has been deposited to pay for the initial period of a "sent-paid" local or long distance call. Since only LEC payphones, in most instances, have been connected to this functionality, the programming is based on the rate schedule selected by the LEC payphone operation. In order to be generally useful to other PSPs, the network coin control functionality must be able to be programmed with other rate schedules selected by PSPs other than the LEC. Otherwise, the PSP is compelled to mimic the LEC's rates in order to utilize network-based coin control.[2]

The only Bell company to address directly the issue of individually ratable coin lines is Ameritech, which appears to claim that it is unable to offer such coin lines. According to Ameritech:

> [T]he coin line Ameritech provides cannot overcome the limitations of the switch as delivered to Ameritech by switch manufacturers. For example, the operator switch to which the coin line is connected is limited to a single rate table: therefore the coin line would not allow private pay telephones to select their own call rates.

Ameritech at 18.

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[2] The failure to offer individually rated coin control is an important reason why "[v]ery few independent PSPs have even purchased unbundled coin lines" even in those jurisdictions where coin lines have been offered. RBOC Coalition at 25. The coin lines currently available to PSPs are unbundled in only the crudest sense; for practical purposes they are still bundled because they are still tied to the end-user rate structure selected by the LEC.

This claim is startling, to say the least, since Ameritech has prominently advertised in payphone industry publications a service called "ProfitMaster" that offers coin line functions and does "allow [independent] pay telephones to select their own call rates." Id.; see Attachment 1. The service is provided using equipment manufactured by Intellicall which apparently does "overcome the limitations of the switch as delivered to Ameritech by switch manufacturers." Ameritech at 18.

As explained in APCC's comments, a coin line offering that forces IPP providers to use the rate tables selected for Bell company payphones would be an obvious violation of the non-discrimination requirement of Section 276. An IPP provider is forced to mimic the rates selected by the LEC payphone operation, while the LEC payphone operation is free to select its own rates.

Ameritech makes the frivolous claim that Section 276 does not require Bell companies to offer IPP providers any coin line functions at all. Ameritech at 17. Ameritech's argument that the statute is satisfied if cross-subsidies for Bell company coin lines are eliminated completely disregards the non-discrimination requirement of Section 276. Ameritech's further argument that a coin line is not an "essential facility" also disregards the language of the Act. The Act states that Bell companies may not discriminate between their own operations and those of IPP providers; it does not limit the non-discrimination obligation to the offering of services that qualify as 'essential facilities" under antitrust doctrine. Furthermore, coin lines do offer important advantages over "alternate access lines". For example, fraud protection is more effective because it is not possible to use "clip-on" techniques or end-office-generated "secondary dial tone" to bypass the coin control features associated with the payphone.

Individually programmable coin lines are also a necessary measure to eliminate subsidies for LEC payphone operations, and for that reason alone must be required for all LECs, including non-Bell LECs. Ameritech's claim that coin lines need not be required "after such cross-subsidies are eliminated" begs the whole question of how to ensure that cross-subsidies are eliminated. Allowing an important network function such as individually programmable call rating to be available solely to LEC payphones and not to PSPs is an open invitation for LECs to continue subsidizing their payphone operations by below-cost pricing of the coin lines used by their own payphones. The most effective way to prevent such subsidies is to ensure that equivalent coin line services are available to all PSPs, LEC or independent, at non-discriminatory prices. This cannot be accomplished by merely requiring LECs to offer coin lines that are tied to use of the LEC's rate tables and that are therefore unattractive to other PSPs

Therefore, Bell companies and other LECs should be required to make available individually programmable coin line services at non-discriminatory prices to any PSP. "Switch limitations" must not excuse LECs from offering individually programmable coin line service (Ameritech at 18), since, as discussed above, equipment is available that can overcome such limitations. Further, the price and quality of service provided should not be allowed to disadvantage IPP providers because the coin line functions requested by IPP providers are offered from adjunct equipment. If adjunct equipment is more costly to use, then the costs should be averaged into one rate. If adjunct equipment provides poorer quality service, then the Bell companies' payphones should be required to use adjunct equipment at least as often as IPP providers are.

2. Part 68 Registration (¶ 47)

APCC does not object to "grandfathering" the installed base of payphones for purposes of Part 68. However, refurbished payphones should not be "grandfathered". Refurbishment often results in significant changes to the operating characteristics of a payphone. To the extent that Part 68 requirements are needed to protect any payphone from causing harm, those Part 68 requirements are equally needed when an existing payphone is refurbished. Accordingly, when a LEC payphone is taken out of service for refurbishment, it may not be reconnected unless and until the refurbished version of the model has been registered under Part 68.

3. Inside Wire (¶ 47)

The RBOC Coalition urges that network demarcation point rules "should be applied flexibly, allowing for the physical circumstances of the payphone location and for negotiation of the demarcation point with the location provider." RBOC Coalition at 27. The Commission must also ensure, however, that the demarcation point is applied in a nondiscriminatory fashion to all PSPs. "Flexibility" cannot be allowed to become a license for discrimination.

Therefore, LECs must be required to designate demarcation points that are uniform by category of site. In other words, while different demarcation points may be appropriate for wall-mounted payphones, booth-mounted payphones, etc., or for indoor, outdoor, shopping mall locations, etc., the demarcation point for each category of site must be specified by the LEC and must be applied in a nondiscriminatory fashion to all PSPs.

4. **Other Services (¶¶ 48, 57-66)**

The RBOC Coalition states that other services such as installation and maintenance, joint marketing, per-call tracking, and call validation are not required by IPP providers in order to compete with RBOC payphones and should not be required. In fact, the services are needed by IPP providers, as explained in more detail below. However, the RBOC Coalition's argument misses a key point: a separate reason for requiring these services to be offered by LECs to IPP providers on a nondiscriminatory basis is that their availability to IPP providers will help ensure a proper allocation of the costs of these services to the LECs' own payphone operations.

a. **Fraud protection**

Fraud protection, in the form of assignment of special numbers or other measures[3] to prevent collect and third-party calls being billed to payphones, is obviously

[3] MCI states that a better protection than assignment of special numbers is the provision of "cuckoo tones". MCI at 16. Five years ago, APCC requested that the industry make CO-based "cuckoo tones" available for coin lines and IPP lines. The Commission's rule should state that whatever safeguards are provided for LEC payphones should be equally available to other PSPs.

important to independent PSPs. These are important safeguards. For example, IXCs now take the position that, even if the payphone has billed number screening that is intended to prevent billing of collect calls, the payphone owner may still be liable for collect calls if the payphone is not assigned a telephone number in the series that the "industry" has agreed should be used to designate payphones. See Attachment 2. These numbers and other safeguards have long been available to LEC payphones. They must be available on the same terms -- whether provided for free, at a tariffed or contract price, or on a cost allocation basis -- the to IPP providers.

b. Installation and maintenance

Installation and maintenance (I&M) services are, in fact, necessary for independent PSPs to compete. All payphones need the LEC's help in order to maintain their payphone lines. If a LEC technician provides I&M on the same visit for a LEC payphone or payphone inside wire as well as the payphone line, or if the LEC technician provides I&M for the LEC payphone on the same trip on which he or she provides scheduled maintenance for other residential or business lines, that technician should also be available to maintain IPPs on the same terms and conditions. Thus, if the LEC payphone operation is "billed" for the payphone I&M on an allocated cost basis, similar maintenance should be available to IPPs on an allocated cost basis.

c. **Joint marketing**

It is critically important that the LEC should not be able to use its dominance in the local exchange and intraLATA services market to gain unwarranted marketing advantages over other PSPs. If a LEC jointly markets its other regulated services, such as local and intraLATA operator services, to a location provider, the same services should be available for joint marketing with other PSPs. Otherwise, a LEC could use commission payments to location providers for 0+ local and operator services to effectively subsidize its payphone services.

d. **Per call tracking**

Per call tracking is critically important especially in the context of subscriber 800 call compensation. As discussed in GPCA's initial comments, except for 800 numbers that are known to be carrier access codes, PSPs have no way of using their own SMDR to identify the carrier handling 800 calls placed from their payphones. Only the LEC has access to the 800 routing database information that can determine this. PSPs are therefore dependent on LECs for the information necessary to check the accuracy of their dial-around payments received from carriers handling 800 calls.

In the event that PSP providers are given responsibility for billing carriers for the correct amount of per-call compensation, as some IXCs propose, the dependency of PSPs on LECs becomes even greater. PSPs would require 800 carrier identification information simply in order to bill carriers in the first place.

In addition, LEC tracking information would provide more detail on other aspects of payphone calling than is available to PSPs from their own payphone's SMDR.

Requiring LECs to provide this information on the same terms and conditions to all PSPs is thus essential to prevent discrimination and to ensure that LECs do not subsidize their own payphone operations by providing the service to themselves at below cost rates.

e. **Billing, collection, and validation**

Billing, collection, and validation is critical for those PSPs that provide their own operator services in conjunction with their payphone service, e.g., by means of store-and-forward devices in their payphones. (In the inmate calling service arena, most service providers -- including most large LECs -- combine collect call processing operator service with call control features necessary in the inmate environment into a single package of services offered from dedicated equipment. See Comments of the Inmate Calling Service Providers Coalition.)

PSPs that offer such services are dependent on the availability of billing and validation services from the LEC. To the extent that the LEC offers such services to its own payphone operation, it must offer the same services to PSPs on the same terms and conditions. Otherwise, these services become yet another vehicle for subsidy and discrimination.

For example, LECs may not treat uncollectible operator service charges differently for independent payphone companies than for their own payphone service operations. If bad debt is segregated and charged against amounts collected for independent providers, the same treatment must be applied to the LEC's own payphone service.

f. **Commission Payments**

If the LEC provides operator services in its network, but offers a commission to its own payphone operation, the LEC must offer equivalent commissions to other PSPs. This helps ensure, not only that the LEC does not discriminate between its own payphone operations and other PSPs, but also that the LEC does not subsidize its own payphone operation by offering commissions at levels that exceed the fair value of the traffic received. While commission payments may be permitted to bear a relationship to the volume of traffic delivered, premiums for higher volumes must not be allowed to be used as a means of discrimination or subsidy. In the absence of restrictions, to take an extreme example, a Bell company could offer 50% commission only to entities that deliver more than $1,000,000 a month in operator service revenue, while offering a 10% commission to all other entities. With as much as 85% of the embedded base in its territory, a Bell company could easily be the only entity capable of delivering more than $1,000,000 per month. Thus, in a manner analogous to the treatment of volume discounts, the Commission should require that the highest level of commission payment offered by the LEC must be available to aggregators of IPPs that yield a level of traffic volume or revenue that is equal to one-third of total IPP operator service traffic or revenue.

B. <u>Transfer To Unregulated Status</u> (¶ 49)

The RBOC Coalition contends that only physical assets should be transferred, and only at net book value. RBOC Coalition at 27-30. The only rationale on which they significantly rely is that this is how it was "always"[4] done in the case of CPE. However, transfer of payphones present a materially different problem from the Computer II transfer of CPE. The Computer II transfer was a wholesale transfer involving hundreds of millions of dollars worth of equipment. Payphones, by contrast, represent a much smaller universe. Value appraisals, which could be conducted in a number of ways (see GPCA's initial comments), will be much easier to manage in this smaller universe than they would have been in the case of CPE.

Second, as GPCA explained in its comments, there is significant value tied up in a payphone business in addition to the physical assets. Contracts with location providers, for example, represent a major source of value that in many cases far exceeds the value of the physical payphone set alone. The RBOC Coalition is silent on whether they intend that contracts should be transferred to the payphone operation. If the contracts are <u>not</u> transferred, however, that would place the LEC in the anomalous position of holding the contract -- and assessing on local exchange ratepayers the obligation to pay commissions --

[4] The instances cited as examples of how CPE transfers "always" have been done are basically all different permutations of the original Computer II proceeding.

for placement of payphones that have been transferred to the deregulated payphone operation.

The location contract is of immense importance in the valuation of payphone assets. Unlike ordinary CPE, the value of a payphone is inextricably tied to its location. A payphone located in an airport is far more valuable than the same payphone located on an isolated country crossroads These intangible factors explain why, when payphone companies are acquired, the purchase price is typically many times the book value of the equipment alone, as shown in the NuCom study attached to GPCA's initial comments. Furthermore, at least one Bell company has demonstrated a willingness to pay a substantial price merely to acquire an IPP provider's payphone business and site contracts without any of the physical equipment. As shown in Attachment 3, in a recent bankruptcy proceeding in Colorado, U S West offered to pay more than $1,600 per site to acquire the bankrupt company and its contracts while replacing all of the company's phones, booths, and enclosures with U S West's own equipment. Thus, US West did not even want the payphone companies' equipment--they only wanted the contracts and good will. US West offered to pay $1,600 per site for these assets alone, and even offered to clear the sites for free!

This example provides dramatic and concrete proof that net book value does not come close to capturing the value of the assets being taken out of regulation pursuant to Section 276.

C. Ending Access Charge Subsidies (¶¶ 50-54)

1. Timing of Removal (¶¶ 49, 51-52)

The RBOC Coalition requests that asset transfers and elimination of access charge elements and other subsidies be delayed for 12 months after the effective date of the Commission's regulations. If the Commission's regulations take effect at the end of 1996, this would delay the removal of subsidies until the end of 1997. That is far too long to wait. The statute requires the removal of subsidies and placed the FCC under a time limit to complete the necessary regulations. Further, the statute contains a separate, unqualified requirement prohibiting the Bell companies from subsidizing or discriminating in favor of their payphone services, and this requirement takes effect on the effective date of the statute. At a minimum, any delay will prolong the existence of subsidies and discriminatory service arrangements that Congress has ordered to be remedied on an expedited basis. It would be contrary to the language and the clear purpose of Section 276 to delay implementation of the statutory mandate for almost two years after the statute was enacted.

GPCA therefore urges the Commission to require that its regulations for the removal of subsidies and the provision of nondiscriminatory service arrangements be implemented no later than 90 days after release of the FCC's order. This should allow sufficient time for the Bell companies and other LECs to comply. To the extent that any additional delay is necessary to complete the details of accounting, the FCC should ensure that accounting adjustments are retroactive by issuing an order to that effect.

To the extent that there is any delay, of course, it is even more critical for the Commission to prescribe interim compensation for IPP providers. While the RBOC Coalition acknowledges that LECs should not be entitled to collect per-call compensation as long as their payphone operations continue to benefit from the availability of subsidies, as the American Public Communications Council has explained, IPP providers have been waiting five years for compensation on subscriber 800 calls. IPP providers should not be required to wait any longer for this desperately needed revenue relief. In addition, interim compensation is necessary to enable IPP providers to maintain some degree of parity with LECs pending full implementation of structural reforms.[5]

In order to minimize further subsidies and discrimination and to provide an incentive to complete implementation of Section 276 in a timely fashion, LECs should be prohibited from entering new contracts for placement of payphones until all restructuring measures have been implemented. Otherwise, ratepayer revenues will continue to be expended on contracts, including up-front bonus payments, the value of which cannot be fully recovered for ratepayers.

Further, if there is any delay in removal of subsidies, the same delay must also apply to any authorization the Commission grants for Bell companies to select interLATA carriers. Clearly, even if interLATA selection authority were otherwise appropriate, the Bell

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[5] The Commission also must not delay the implementation of a uniform local coin rate. To the extent that there is any necessary delay in the elimination of subsidies, the uniform local coin rate advocated by APCC should still take effect immediately. LECs may keep their revenues from such an increase provided that, as explained above, LECs do not use such revenues to enter new payphone contracts.

companies must not be allowed to exercise such authority at a time when not even the most rudimentary safeguards against abuse of market power in the payphone market are in place.

2. **EUCL Charges** (¶ 54)

GPCA's initial comments explain why EUCL charges should not be applied to either LEC or independent payphones. However, in the event that the Commission decides such charges should apply to PSPs, GPCA agrees with the position of a number of other parties that no extra EUCL "surcharge" should be applied to IPP providers beyond what is applicable to other "end users". The Act does not require the elimination of "subsidies" that, assuming they exist, are inherent in the overall access charge scheme and benefit all users of the network. Further, the Act did not direct the Commission to take measures that create unreasonable discrimination between IPP providers and other local exchange customers. IPP providers have been subjected to enough inequity for the last twelve years. It would be the height of irony and absurdity, as well as unlawful, if the Commission, having been directed to end the long-standing discrimination between Bell payphones and IPP providers, subjected IPP providers to additional unreasonable discrimination by imposing an access charge on IPP providers that is not imposed on other local exchange customers.

D. Nonstructural Safeguards (¶¶ 57-66)

GPCA's initial comments explained why the need for safeguards is critical, and why the Commission should make all safeguards applicable to the Bell companies applicable to other LECs, and at a minimum to those LECs with more than 100 million annual revenue. Appended to GPCA's comments as a separate Appendix are additional examples of complaints by various IPP providers regarding LEC practices. These complaints, most of which date from the past few months, provide another small sample of the kinds of LEC and Bell Company practices which have plagued the independent payphone industry since its inception 12 years ago.

It is particularly important to ensure that these safeguards apply to LECs that serve U.S. island territories such as Puerto Rico[6] and the Virgin Islands. In its comments, Puerto Rico Telephone Company argues that public interest payphone regulation be applied in a broad fashion that allows Puerto Rico Telephone Company to continue subsidizing service. While GPCA does not object to the provision of subsidized service, funded in an equitable fashion, with the subsidy available to all PSPs, not just the LEC, to those locations that meet carefully drawn criteria for identifying public service payphones. However, the Commission must not tolerate continuing subsidy of competitive payphone services in the guise of a public interest initiative.

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[6] Puerto Rico Telephone Company has in excess of $100 million annual revenue and therefore already meets the benchmark suggested in GPCA's initial comments.

GPCA believes that the comments of Puerto Rico Telephone Company illustrate the importance of applying all available safeguards to island territories in order to ensure that competition can develop. Because the island territories of the United States are geographically more remote than mainland jurisdictions, it is inherently more difficult for competitors in other areas to extend their operations into these markets. Further, payphone competition has only recently been allowed in these areas. For all these reasons, it is essential that the Commission apply all available measures to implement the statutory mandate with respect to Puerto Rico and the Virgin Islands.

II. INTERLATA SELECTION AUTHORITY (¶¶ 67-73)

The RBOC Coalition plays heavily on the theme of equalizing the terms of competition and giving no industry group "artificial advantages or disadvantages." This rhetoric should not be allowed to obscure the fact that, as RBOC Coalition itself acknowledges, LEC payphone service has been subsidized for years. The result has been that, while independent payphone competition has managed to emerge, the LECs and particularly the Bell companies remain overwhelmingly dominant in the payphone market in their regions. A sense of this persistent dominance can be gathered by comparing what has happened to AT&T's share of the long distance market since divestiture with what happened to the Bell companies share of the payphone market during approximately the same period. According to a recent FCC report, AT&T's share of IXC toll revenues fell from nearly 90% in 1984 to 55% as of the first quarter of 1996 -- a drop of 35 percentage points. By contrast, the Bell companies' share of the payphone market in their territories has only dropped from 100% in 1984 to about 85%, or possibly 80% today.[7] or only about 20 points – half as much as AT&T's decline during the same period.

In the absence of strong safeguards, as explained in APCC's initial comments, the Bell companies would use interLATA carrier selection authority to strengthen their dominant position in the payphone market and extend that dominance into the market for

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[7] See Notice, ¶ 6 (estimating that IPP providers have 350,000 payphones and LECs have 1.5 million). The market share information provided in the Strategic Policy Research study appended to BellSouth's comments attributes a substantially higher market share to IPPs than is justified by either the NPRM estimate or the numbers on which the Bell companies themselves relied in their 1994 submissions to the Department of Justice seeking to vacate the AT&T consent decree. See Motion of Bell Atlantic Corp. et al. to Vacate the Decree, filed July 6, 1994, Affidavit of Richard S. Higgins at 28 and Exh. 9 (estimating that IPPs have only a 13.5% market share).

Part of this inconsistency may result from SPR's seemingly inconsistent treatment of semi-public payphones. SPR acknowledges that it does not include semi-public payphones in the Bell companies' totals. According to SPR, semi-public payphones could have been included because "there is no necessary contradiction involved," but were not included because "from an economic perspective there is an important distinction between semi-public phones and other types of payphone service." SPR at 15, n.13. SPR goes on to say that "[S]emi-public payphone lines actually compete in a relevant market with payphone sets which permit small businesses to self-supply payphone service." APCC does not necessarily disagree with any of this, but SPR does not state that it has made any adjustment to remove the corresponding small-business-self-supply payphones from the IPP total (which is presumably based on line counts for COCOT service provided by LECs, and which therefore would include COCOT lines provided to self-supplying small businesses). Indeed, in an earlier footnote, which notes that aggregate station count information "masks a good deal of diversity within the IPP sector," including "many 'self-provider' payphone operators," SPR implies that it has not made such an adjustment. SPR at 14, n. 11. To be consistent, the analysis should either include semi-public payphones and their small-business-self-supply competition, or exclude both categories. SPR appears to have excluded semi-public from the Bell side while omitting any corresponding adjustment on the IPP side.

interLATA payphone services. As also explained in APCC's comments, and contrary to the RBOC Coalition's protestations, the Bell companies suffer no significant unwarranted disadvantage in the payphone market because of their inability to choose the interLATA carrier serving their payphones. With respect to OSP commissions, as APCC showed, there is a correspondence between the commissions OSPs will pay IPP providers and the commissions they will pay LEC payphone location providers or agents offering comparable traffic volume, and the commissions OSPs pay directly to LEC payphone location providers allow a dollar-for-dollar reduction in the commissions LECs otherwise would pay to those same location providers.

The comments of other parties opposing interLATA authority provide a further demonstration that such authority should not be granted in the absence of strict structural safeguards for Bell payphone operations and limits on their ability to exercise dominance in ways that affect the interLATA market. See AT&T at 23-27; Comptel at 17-21; MCI at 18-19.

GPCA therefore urges the Commission to adopt the safeguards proposed in APCC's comments, including the imposition of a separate subsidiary requirement on Bell companies as a condition of having the right to select interLATA carriers. With respect to APCC's proposed limits on traffic delivered to one carrier and its proposed limits on commission levels, GPCA believes that either a limit on delivery of traffic or a limit on commission levels should be adopted. That is, either the Commission should limit the number of payphones that may be presubscribed by a Bell company to a single IXC to